

VOINOVICH will be recognized to offer his amendment regarding passenger rail flexibility. A vote on the Voinovich amendment is expected to occur this morning at a time to be determined. Further amendments will be offered and voted on with the hope of final passage early in the day. As usual, Senators will be notified as votes are scheduled.

Following the disposition of the Transportation legislation, the Senate may resume consideration of the Department of Defense authorization bill or any appropriations bills available for action.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume H.R. 4475, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4475) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio, Mr. VOINOVICH, is recognized to offer an amendment.

The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I ask unanimous consent to have 90 minutes, equally divided, and that there be no second-degree amendments in order in regard to this amendment I intend to send to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we hope we can work something out on the time. I have spoken to Senator VOINOVICH, and we want to cooperate as much as we can. We have a couple of Senators we need to check this with. We have not been able to do that, so at the present time I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. It would be my suggestion, Mr. President, that Senator VOINOVICH go ahead and offer his amendment. As soon as we get word on whether or not we can accept the unanimous consent request, we will interject ourselves and try to get that entered.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BUNNING). Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, noting the objection, in discussing this amendment, I am going to proceed to give my statement and I will send my amendment to the desk following my remarks and the remarks of my colleagues.

Mr. President, when I first introduced S. 1144, the Surface Transportation Act, more than a year ago, I did so thinking that our State and local governments should have the maximum flexibility possible in implementing Federal transportation programs.

I still firmly believe that our State and local governments know best which transportation programs should go forward and at what level of priority.

As the only person in this country who has served as President of the National League of Cities and Chairman of the National Governors' Association, and one who has worked with the State and local government coalition, which we refer to as the Big 7, I have great faith in State and local governments, and I believe they should have maximum flexibility in determining how best to serve all of our constituents.

I think one of the best examples of how state and local governments work to benefit our constituents is what we have been able to do with the welfare system in this country when we let the States and local governments take it over.

That is why I am offering this amendment today—to give our State and local governments the flexibility they need to make some key transportation decisions that will best suit their needs.

The amendment I am offering will give States the ability to use their Federal surface transportation funds for passenger rail service, including high-speed rail service.

This amendment is identical to section 3 of S. 1144. It allows each State to use funds from their allocation under the National Highway System, the Congestion Mitigation and Air Quality Program, and the Surface Transportation Program for the following: acquisition, construction, reconstruction, rehabilitation, and preventative maintenance for intercity passenger-rail facilities as well as for rolling stock.

As my colleagues know, under current law, States cannot use their Federal highway funding for rail, even when it is the best transportation solution for their State or region. Since States are assuming a greater role in developing and maintaining passenger and commuter rail corridors, I think it makes sense that States be given the most flexibility to invest Federal funds in those rail corridors.

Part of being flexible is making sure we consider all of our options. It is similar to the 4.3-cent-per-gallon gas tax repeal effort that we faced in the Senate this past April. High gasoline prices exposed that we have no national energy policy. With prices currently over \$2 per gallon in several areas in the Midwest, the fact that we still have no national energy policy is now really being felt by the American public.

With the need for a national energy policy plainly evident, we need to put all our options on the table. We need to look at expanded rail transportation, conservation, exploration, alternative fuels, and so on. We need to put all of the right ingredients together that will make for a successful transportation policy.

In addition to the high gas prices, I think the Senate should recognize the fact that there is an appeal pending in the Supreme Court of the United States of America on the issue of the Environmental Protection Agency's new proposed ambient air standards for ozone and particulate matter. If the Supreme Court overrules the lower court's decisions that those new standards are not justified, then we will find throughout the United States of America many communities, including communities in my State—where we have achieved the current national ambient air standards in every part of our State—that will be in nonattainment. If the new standards are implemented, we will need more tools to deal with the pollution.

With the need for a national energy policy plainly evident, we need to put all of our options on the table. We need to look at expanded rail transportation and conservation and all the rest.

As States are more able to turn towards passenger rail service as a safe, reliable, and efficient mode of transportation, we will relieve congestion on our Nation's highways. With fewer cars on the road, contributions to air quality improvements and lower gas consumption will be realized.

Again, the idea behind my amendment is simple. States understand their particular transportation challenges better than the Federal Government. I believe it is the States' right and obligation to use whatever tools are available to efficiently meet the transportation needs of their citizens. In this instance, the Federal Government should not stand in their way but work as a partner to give them the flexibility they need to develop a successful policy.

S. 1144 had 35 bipartisan Senate co-sponsors. This particular amendment we are offering today is endorsed by the National Governors' Association, the U.S. Conference of Mayors, the National League of Cities, the Council of State Governments, the National Conference of State Legislatures, the National Association of Rail Passengers, and the Friends of the Earth.

I have yet to convince some of my colleagues that this amendment will

give our States and localities the latitude they need to make proper and cost-effective transportation decisions.

First and foremost, this amendment does not mandate that any portion of a State's highway dollars be used for rail. If a State wants to use all their highway dollars the same way they have been doing for the past few years under TEA-21, then they will be able to do that. It does not establish a percentage of how much is set aside for rail. If a State wants to use highway dollars for rail, then the State decides the amount to meet the particular needs. Governors will have to work with legislators to decide if they want to use it for rail and how much can be used for rail.

So often when we talk about such issues—"the Governors are going to use this money for rail"—my colleagues and I know that Governors recommend and the legislatures then decide whether they are going to follow the recommendations. In my State, looking back on my years as Governor, I think Ohio probably will not use this flexibility provision. But the fact is, it ought to be available to any State if it thinks it is in its best interest.

There is very strong support from outside the Beltway for each State's right to spend its Federal transportation funds on passenger rail. States understand their particular transportation challenges better than the Federal Government and therefore should be given the flexibility to use their highway dollars for rail transportation. There are no mandates on the States to do this. It is totally at the discretion of the States.

We face a historic opportunity today to provide the States with the flexibility they need to meet their growing transportation needs. I urge my colleagues to vote in favor of this amendment.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CLELAND. Mr. President, I rise in strong support of the amendment to be offered by my distinguished colleague from Ohio. People in my region of the country in the South are usually known for their position in favor of States rights. This is not just a transportation issue; this is a States rights issue. This amendment is not a mandate. It is not a threat to highways or the Highway Trust Fund. It would not change any Federal transportation formulas. It requires not a penny in new spending. What it does do is to give States the option to spend Federal transportation funds on intercity passenger rail. What this amendment does do is give States the opportunity to make transportation spending decisions based on their own local needs.

Mr. President, part of my State is in a transportation crisis. Metro Atlanta has the worst traffic congestion of any southern city, and our drivers have the longest commute in the Nation. Due in large part to the exhaust from nearly

three million vehicles, Atlanta's skies are in violation of national clean air standards. For two years now, Federal funds have been frozen for new transportation projects. The bottom line? Metro Atlanta's congestion and pollution problems are now threatening our most valuable selling point: our quality of life.

The good news is that the best transportation minds in the State have rallied around Metro Atlanta's transportation crisis. These movers and shakers are not afraid to redraw the maps. The result is a new transportation plan that is going to meet our air quality goals, and that plan devotes 60 percent of Georgia's transportation dollars to rail. Georgia has dramatically reformed its transportation focus: from moving cars to moving people, from promoting sprawl to promoting smart growth.

As the folk song says, "the times they are a-changing." We're about to witness a rebirth of rail in Georgia, rivaled only by the days before General Sherman when Atlanta was the undisputed railroad hub of the Southeast. And key to this vision is intercity rail. The amendment before us, if adopted, will be a Godsend to my state. Let me state loud and clear, this amendment will be a Godsend not just to Georgia, for Atlanta's commuter congestion is mirrored in countless highways across America. One viable solution to two of the 21st century's most challenging and frustrating problems, smog and gridlock, may very well be found in a renaissance of rail, not just in my home State, but throughout this great Nation.

For those States which see rail as key to their transportation future, we should at least give them another option for financing their intercity rail investments. Our amendment will do just that. It will give states whose highways and skyways are clogged with traffic not a mandate, but a chance to use their CMAQ, National Highway System, and Surface Transportation Program funds on passenger rail if they want to.

I urge my colleagues to vote for the bipartisan measures before us. The National Governors Association, the U.S. Conference of Mayors, the Council of State Governments, the National League of Cities and the National Council of State Legislatures are all on record in support of providing flexible funding for passenger rail. This is States' rights legislation, and it's the right legislation for a balanced transportation system in the 21st century.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in opposition to this measure. I yield myself 10 minutes in opposition.

The PRESIDING OFFICER. There is no time limit.

Mr. BOND. There is no time agreement? I thank the Chair. I will take such time as I require then.

Mr. President, my colleague from Ohio has offered an amendment which I

believe takes us down the wrong tracks, very far in that direction. He has offered an amendment that would allow our precious highway resources to be used for Amtrak.

My colleague from Georgia has talked about the sad situation in Georgia where their highway funds are frozen because the courts have overturned a previous policy of the Federal Government to allow highway transportation projects to continue. I urge his and my other colleagues' support of my measure on conformity that would allow needed highway construction to go forward.

As to this amendment, many would argue this is an issue of States rights. That is just not the case. I am a former Governor. One would be hard pressed to find anyone in this body who is a stronger States rights advocate than I am. I intend to continue to be so. There will be those who will try to convince us this is anti-Amtrak. That is not the case. As Governor of the great State of Missouri, I was the one who ensured that my State provided its own resources in an effort to help subsidize Amtrak.

This is an issue of a dedicated tax for a dedicated purpose. We told the American people we were going to put the trust back into the trust fund. This is an issue of Congress upholding its end of the agreement with the American people.

It has just been 2 years this month since the Transportation Equity Act of the 21st century—better known as TEA-21—was signed into law. In my opinion, the most historic and the most important provision of TEA-21 was the funding guarantee that I authored with our late friend, Senator John Chafee, with the assistance and the guidance of the Budget and Appropriations Committees. Some called that provision RABA, or revenue aligned budget authority. Up here, it is often called the Chafee-Bond provision. In Missouri, we call it the Bond-Chafee provision. But the whole intent of that measure was very clear. We have a dedicated tax that was imposed on the American people for the purpose of highway improvement and safety issues. We lose too many lives in my State and in every State in this Nation because of inadequate highways. Over 30 percent of the deaths on our highways nationally are a result of inadequate highway and bridge conditions.

We told the American people for the first time we were going to allow them to trust the trust fund; that when they put the money in when they bought the gas at the pumps, we would put it back for highway trust fund purposes. That is what the funding must be spent on under the guarantee—highway improvements and safety issues. Because of the guarantee, our road and bridge improvements are financed on a pay-as-you-go basis.

We drive on the road. We buy the gas. We pay the tax. We build better roads and safer roads to protect our citizens,

to provide convenience and safety, to get rid of the pollution that comes from congestion, and to assure sound economic growth in our communities and in our States.

I don't think this debate should even occur. It should not even be an option for us to decide whether or not we will use the highway trust fund money for other purposes. How soon we forget. We made those decisions just 2 years ago in TEA-21. Do we want to reopen the whole highway funding and highway authorization measure again? Let's not start down the path of reopening TEA-21. We made accommodations. We made changes. We made compromises. We included other projects and other activities such as transit in TEA-21. We made a deal—not just with us but with the taxpaying American public.

Earlier this year, the administration proposed to divert funding coming from the highway trust fund to Amtrak and other purposes. At that time, my colleague from Ohio, I, and countless other Senators made it clear that we opposed the administration's attempt to rob the highway trust fund. I had an opportunity to discuss this with Secretary Slater at our Transportation appropriations hearing and suggested to him that "this dog won't hunt." This dog isn't a much better hunter either.

I don't believe that the people in my State who pay the taxes or in the States of my colleagues who pay the taxes are going to be excited about this. This amendment is similar to the previous effort by the administration to divert funding. It takes us down the path of diluting our highway funding for purposes other than highways and highway safety.

I have a simple question for my colleagues to think about: Why are we talking about using our highway funds for Amtrak and not using our transit funds for Amtrak? I personally think transit funds would be more appropriate if it fit into the transit plan. OK. Let them use transit funds because that is essentially what Amtrak is; it is a form of transit. It should not be competing with the scarce dollars to build safe highways, roads, and bridges.

I remind my colleagues that we have a transportation infrastructure crisis on our hands. Two years ago, Governors, commissioners, highway departments, city officials, and everyday Americans told us we were not investing enough in our highway infrastructure. They let us know that the deterioration of our highways and bridges was having a tremendous impact on their local and State economies and, more importantly, on the safety of their citizens. We are still not getting enough money into highway improvements. The latest I heard, and to the best of my knowledge, no State in the Nation has even 80 percent of its highways up to a standard the Department of Transportation regards as fair. Every State, to my knowledge, has at least a 20-percent deficit in adequate highways, roads, and bridges.

These are just some of the reasons so many of us fought to ensure that we would keep our commitment to the American people regarding the highway trust fund.

We increased spending on our Nation's highway infrastructure because our needs were much greater. I know with absolute certainty that the needs identified just 2 years ago have not gone away, and they are not going to go away if we continue to divert money and if we try to divert money from the highway trust fund. These needs still exist.

We told the people of America we would put trust back into the trust fund: Trust us. Trust us to spend your highway taxes that go into the highway trust fund for highway trust fund purposes.

The National Highway System was part of the grand national scheme. This was a national scheme to ensure that people in any State in the Nation could travel to any other State in the Nation and be safe on a National Highway System. That is what this is all about. This isn't about States having their own little, independent highway programs with four-lane highways that end in a cornfield at somebody's border. This is about having a National Highway System where there is safe transit on interstate highways.

Trust fund taxpayers in my State, and your State, and every other State, expect when they pay the money in, it will go to assure that when they drive in their State or in any other State, they will be driving on safe highways; they will not be putting themselves and their loved ones and their families at risk from unsafe highway conditions.

To my donor State colleagues—those of us whose states pay more into the highway trust fund than they get out—think about this for a minute: You have highway needs in your State. Yet under this proposal, you would see the highway trust fund dollars your citizens put into the highway trust fund going into Amtrak. That is not keeping faith with the commitment we made in the highway trust fund.

Let's talk about States rights. I have often thought that maybe we really ought to do a States rights approach to this and let the States have all the money they raised. You want to talk about States rights. Let's keep the highway trust fund dollars in each State as they are contributing. That is States rights.

We agreed in TEA-21 that we were going to have a trust fund for a National Highway System—not a national Amtrak system. We are providing funds in this bill for Amtrak.

We know that improvements and repairs to our highway system will help improve driving conditions, will reduce driving costs to motorists, will relieve congestion, and will reduce the number of accidents and fatalities. The cost of repairing roads in poor condition can be about four times as great as repair-

ing roads that are in fair condition. We have to keep our roads in at least fair condition. Our Nation's roads and bridges are at a high level of deterioration.

A recent headline in the Capital City newspaper in Missouri said that my State of Missouri ranks seventh nationally in poor bridges. We need to do something about those bridges; they are dangerous. The highways are dangerous and we need to do something about them.

Look at the other side. This is not an issue of trying to deny Amtrak resources. Senators SHELBY and LAUTENBERG included in the underlying Transportation bill, which I support, \$521 million for Amtrak's capital program. I have supported that. That is \$521 million for Amtrak for capital. That \$521 million provided is consistent with the administration's request, and it is consistent with the so-called glidepath level of Federal funding agreed to by the administration and Amtrak.

We continue these huge Federal subsidies, even though Amtrak's financial situation is precarious at best. According to the Senate report, the Federal Railroad Administration has said that Amtrak ended the 1999 fiscal year with a net operating loss of \$702 million.

Since 1971, Amtrak has received over \$23 billion in Federal funding for operating and capital expenses. Despite Amtrak's efforts to improve and its new business plan, it is still not clear whether or not Amtrak will reach self-sufficiency. I said that I support the appropriation for Amtrak in the underlying bill. I have used Amtrak. I am happy to work with my colleagues in the Senate, my former fellow Governors, and others, to see that we put money into Amtrak. But this issue is not about Amtrak. This is an issue about keeping our commitment to the taxpaying citizens of our States and of this country, whom we told we were going to put the "trust" back in the highway trust fund.

I strongly oppose the Voinovich amendment because it violates that promise. We can't even keep a promise for 2 years. We said we were putting the "trust" back in the highway trust funds. That is what the highway trust fund is all about. I think this amendment violates the agreement made during TEA-21, and I strongly urge my colleagues to oppose the Voinovich amendment.

I yield the floor.

The PRESIDING OFFICER. Will the Senator from Ohio please send his amendment to the desk.

AMENDMENT NO. 3434

(Purpose: To provide increased flexibility in use of highway funding)

Mr. VOINOVICH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. VOINOVICH], for himself, Mr. CLELAND, Mr. ROTH, Mr. MOYNIHAN, and Mr. LAUTENBERG, proposes an amendment numbered 3434.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following:

SEC. 3. FUNDING FLEXIBILITY AND HIGH SPEED RAIL CORRIDORS.

(a) ELIGIBILITY OF PASSENGER RAIL FOR HIGHWAY FUNDING.—

(1) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

“(Q) Acquisition, construction, reconstruction, and rehabilitation of, and preventative maintenance for, intercity passenger rail facilities and rolling stock (including passenger facilities and rolling stock for transportation systems using magnetic levitation).”.

(2) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by inserting after paragraph (1) the following:

“(12) Capital costs for vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by rail (including vehicles and facilities that are used to provide transportation systems using magnetic levitation).”.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(A) in paragraph (4), by striking “or” at the end;

(B) in paragraph (5), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(6) if the project or program will have air quality benefits through acquisition, construction, reconstruction, and rehabilitation of, and preventative maintenance for, intercity passenger rail facilities and rolling stock (including passenger facilities and rolling stock for transportation systems using magnetic levitation).”.

(b) TRANSFER OF HIGHWAY FUNDS TO AMTRAK AND OTHER PUBLICLY-OWNED INTERCITY PASSENGER RAIL LINES.—Section 104(k) of title 23, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following:

“(3) TRANSFER TO AMTRAK AND OTHER PUBLICLY-OWNED INTERCITY PASSENGER RAIL LINES.—Funds made available under this title and transferred to the National Railroad Passenger Corporation or to any other publicly-owned intercity passenger rail line (including any rail line for a transportation system using magnetic levitation) shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.”; and

(3) in paragraph (4) (as redesignated by paragraph (1)), by striking “paragraphs (1) and (2)” and inserting “paragraphs (1) through (3)”.

Mr. REID. Mr. President, on behalf of the leader, I ask unanimous consent that with respect to Senator VOINOVICH's amendment on passenger rail flexibility, the vote occur on or in relation to the amendment at 11 a.m. today with the debate until 11 divided in the usual form. I further ask consent that no amendments be in order to the amendment prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I am on the side of the Senator from Ohio. I don't know what the agreement is as to who has jurisdiction over the time, but I believe—

The PRESIDING OFFICER. The Senator from Ohio controls half of the time, and the manager or his designee controls the other half.

Mr. LAUTENBERG. How much time remains, Mr. President?

The PRESIDING OFFICER. There are 20 minutes for the Senator from Ohio and 17 minutes for the opposition.

Mr. BIDEN. Mr. President, I ask the Senator from Ohio whether he would be willing to yield me 7 minutes?

Mr. VOINOVICH. I would be more than happy to do so.

Mr. BIDEN. Mr. President, I thank the Senator from Ohio and the Senator from Rhode Island for taking the lead on this important amendment this year. As a former Governor and mayor, they can both tell you firsthand about the need for State and local governments to have flexibility to make the best use of their transportation dollars as they see fit.

I find this kind of fascinating. Here we are and we talk about States rights and doing what the States need and the States know what their requirements are. Yet repeatedly when I have introduced this same amendment without the help—hopefully, it will change now because I have a former Republican Governor who has done the job. He is here in the Senate. I have stood up on the floor since 1991 introducing this amendment and I have been told that the Governors don't want this, or that this is inconsistent with the Republican philosophy, or whatever.

Now we have a Governor from one of the largest States in the United States who has done the job—and he obviously did it very well—who says, along with a former mayor from one of our smaller States but with more concentrated cities, that this is a flexibility that will help. Why should you be put in a position as a Governor when, in fact, you are able to, by the way, have flexibility with this money and to decide how you want to use your highway money, and you decide you want to put a bus route on, you can do it? Why can't you use the railroad? This sacrosanct principle I always hear from my friend from Missouri I find fascinating. What is the difference between a bus and a railroad? It is not a road. Guess what. It is on a road. The cement and asphalt guys like that a lot. They don't like the idea that we would make it better for our constituents and Governors have the choice and flexibility.

We are not asking for more money; we are asking for flexibility. I would think it is just common sense. The record shows that the Senate has gone on record time after time—in 1991, 1995, and 1997—in favor of this same proposal before us today in the Voinovich

amendment. Time and again, the language has been dropped in conference with the House, which is why we are here again today.

In addition to the same common sense, we are also here to restore balance to the way our transportation dollars are spent. Once again, the highway lobby, which is not content to consume its own large share, is trying to keep Amtrak from having a little bit of a share of the leftovers that go on after other modes of transportation have been taken care of. I guess we will have that business to deal with today.

First, the issue is common sense. Under current law, States are permitted to make their own choices to use the money for certain Federal transportation programs for mass transit, hike and bike trails, driver education, and even snowmobile trails. This is not a very restrictive list, Mr. President. In fact, there is only one kind of transportation that Governors and mayors aren't allowed to consider; that is, inner-city passenger rail.

Isn't that funny? They are going to give the folks in Minnesota, as we should, the ability for the Governor to decide he wants to spend highway money for snowmobile trails. Well, that is his business. They need that, according to the people in Minnesota. We don't need it in Delaware. We need rail. As my friend, and the leader on this subject for the entire time he has been here, the Senator from New Jersey, says—and one of my greatest regrets is that he is leaving voluntarily, and I mean that sincerely. He has one of the few logical voices in this debate. He and I come from States that if you widen I-95, it will accommodate the reduction of rail transportation and you are going to take up the bulk of my State. It would take another seven lanes. Look, I don't tell the folks in Missouri what they need. I don't tell the Governor of Missouri that he should or should not build more roads. Why can't you let the Governor of the State of Delaware decide whether or not it is better for us to have rail transportation between Wilmington and Newark, DE, instead of having to build another lane on I-95?

We all know why Amtrak is off the list. It is politics, pure politics. It has nothing to do with good public policy or a principle of federalism. What sense does it make to go out of our way to tie our Governor's hands when it comes to inner-city transportation? It makes no sense. That is why the Senate has supported this language time and again—unanimously, in some cases, in the past, and with strong bipartisan support. Here is what is at stake when you think about this little proposition: A little balance in our transportation spending.

Mr. President, last year Amtrak received \$571 million in Federal funding. The highway system got \$53 billion; and \$20 billion of that was over and above the gas tax and users' fees that make some folks believe they are paying their own way. Again, \$20 billion.

We are talking \$571 million for Amtrak.

I am not here to argue against full funding of the highway system. However, a lot of places such as the Northeast corridor are not going to be able to add another lane to I-95. We have to have another option for our transportation dollars. That is all this amendment does. It gives, along with every other State, an option we need to keep intercity transportation and rail systems viable. That includes States in the Midwest, West, and South, which is why S. 1144, the bill on which this amendment is based, is cosponsored by 36 Senators including, I note with interest, the distinguished majority leader.

The simple notion of balance says we ought to give all the parts of our transportation system the resources they need and we should give our citizens the full range of transportation choices that citizens in every other advanced economy in the world can now take for granted. It is time to stand up for this language. There is no principled argument on Federalism.

I thank my friend from Ohio for his leadership, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, this is one of these issues that gets convoluted. Unfortunately, in my role as the chairman of the Environment and Public Works Committee, I must object to this authorizing amendment to the appropriations bill. I join several of my distinguished colleagues, including my ranking member, Senator BAUCUS, in this regard.

I point out upfront I am a cosponsor of S. 1144. I support State flexibility. I support a cost-effective rail system that is efficient. And I encourage Amtrak to move towards privatization. The States do have an interest in developing passenger rail. I want the States to have that flexibility, which is why I cosponsored S. 1144.

Rail funding flexibility is a complex subject central to the so-called TEA-21 legislation which was debated and negotiated over many months in the last Congress. This issue is squarely in the jurisdiction of the authorizing committee, not the Appropriations Committee. We have had this fight many times before. The majority leader has spoken eloquently on this matter time and time again. We basically render the authorizing committees powerless, useless. What is the purpose?

I have spent days and days and days and weeks and weeks in an effort to resolve a matter that deals with buses, an amendment or some language that would be acceptable so we could vote for this. If we had done that, perhaps we wouldn't be here now. Instead, we are now faced with a decision. I have to oppose something that in essence I support, but for some language that would deal with the problems the bus companies have.

This is an authorizing committee matter. Time and time again we legislate on appropriations bills, and time and time again the authorizing committees become useless. Since it has been reported, I have spent several months working on substantive amendments to this bill. This bill has holes. On behalf of rail flexibility and the railroads, I have tried my best to get around the holes, to no avail.

This provision requires more thought, more consideration, better timing. Members of the Environment and Public Works Committee have a difference of opinion on this amendment. I respect that. That is the way the process works. I have no problem with people having their own views, and I am sure they don't have a problem with me having mine. We ignore the authorizers' concerns if we shove this through on an appropriations bill. The House appropriations bill had another version of rail flexibility, and it was struck by a point of order.

I am very concerned about continuing Amtrak competition with intercity bus service, which is why I have spent with my staff on the committee weeks and weeks negotiating, working, trying to come up with language that would be acceptable. Rail service will prosper if it is integrated with feeder bus service. That is how rail will prosper. The rails have limits as to where they can go. Feeder buses have more flexibility. That enhances the rail.

Not included in this amendment is a specific prohibition against these funds being used for Amtrak operating subsidies. Not included in this amendment is any mechanism to prevent below-cost pricing that damages existing bus service. And not included in this amendment is any mechanism to ensure rail and bus service are integrated. This amendment in its current form leaves many holes in this important policy, without protecting the buses or the State government from the influence of Amtrak.

Balanced intercity transportation is important. This amendment cannot strike the right balance, I regret to say. I ask my friends in the Senate to keep this provision in the jurisdiction of the Environment and Public Works Committee where it belongs. If you are on the committee, do what I am doing, even though in essence, with the exceptions I noted, I support S. 1144. Keep this matter in the jurisdiction of the committee where it belongs.

We will continue our hard work on making it good legislation for all the competing interests. If this provision goes on the appropriations bill, my committee cannot work on negotiations in conference. All who worked so hard to craft this, going back to when my predecessor was chairman of this committee, Senator John Chafee, when the process began, S. 1144 was marked out of committee and put on the Senate calendar. The idea behind that is, if there is a conference on this bill with

the House Members of the Environment and Public Works Committee, which brought the bill out, we would have a right to conference. We are not even going to be in the conference now. We are totally shut out of the process.

I say to my colleagues, I don't care where you are on the issue itself—whether you are for rail, bus, no rail flexibility, total rail flexibility—the right thing to do here is to support a rule XVI point of order because it is legislating on appropriations. Senator LOTT has spoken about that issue over the past several weeks. I encourage my colleagues to support the rule XVI point of order. I am not sure who yet will raise that point of order. I may do it, Senator BAUCUS may do it. We will talk about that. The point is, the rule should be raised and will be raised. I encourage my colleagues to support the rule XVI point of order to this legislation on appropriations bills.

I yield the floor.

Mr. LAUTENBERG. Mr. President, I ask the Senator from Ohio to yield me 5 minutes.

Mr. VOINOVICH. I yield.

Mr. LAUTENBERG. I thank the Senator from Ohio and congratulate him for his foresight. He is among the best to know what to do in a situation such as this, having served as a Governor of Ohio and mayor, as we earlier heard from our friend from Delaware.

We are simply asking for flexibility to use certain highway funds for mass transit investments. I think that is a pretty good idea. The Voinovich amendment merely extends that flexibility to include Amtrak expenses.

We do not have much new here, except to make certain that if a Governor, if a State, if the people in that State choose to use some of the highway money they are going to have on rail, they have an opportunity to do so. I, frankly, think it is an appropriate local decision. We often have disputes here about whether we are invading States rights, seizing their prerogatives. This one surprises me because what I hear from the opponents, largely, is: Well, my people have put money into the trust fund from the gasoline taxes and we want it spent on highways.

I can tell you, coming from New Jersey, we don't get very much of a return on the money we send down here. As a matter of fact, I am embarrassed to tell some of my constituents that we have among the lowest—perhaps the lowest—return on money we send to Washington. So we understand the concerns there. But this is in the national interest. As we hear the discussion, we say it should be to guarantee a National Highway System. The highway system is getting by far the lion's share. If a State says it would also like to be investing in intercity rail service, I think it ought to be able to do it.

Some say all the money going to rail, to Amtrak, is largely in the Northeast corridor. That may be a fact of life because most of the people in the country

are squashed into that little area, the Northeast quadrant of the United States. But also, as we look at plans, there are plans to take trains from Chicago to St. Louis. If the investments are properly made there, we will knock about 2 hours off the trip from Chicago to St. Louis. I assume that is an important route. It is a Midwest route, Chicago to St. Louis, MO—that is a pretty busy area, too. And there is congestion there: Been there, done that; I have seen it myself. Traffic on the highways is bottled up.

We are clogging the airplanes to such a point they cannot function. There was an article in the paper the other day about runway incursions. They are way up, 27 percent in just 5 months this year. That is an ominous thing to think about. We are always concerned about airplanes falling out of the sky. Our system is fundamentally safe, but runway incursions happen for a couple of reasons, not the least of which is it is just too crowded. There are too many airplanes fighting for the same space to land or to take off or for slots to permit their passengers to disembark.

We are looking at a situation now, as we heard from the Senator from Delaware, where we cannot put anymore concrete down without recognizing there is a terrific consequence to that. We talk about urban sprawl; we talk about consuming all the land that is under us. We know one thing is true: Rail is an efficient way to go. So we ought to say, OK, I will butt out of your business. If the Governor of Missouri or Governor of Illinois or the Governor of New Jersey chooses to use some of their highway funds on intercity rail and convinces their legislature to do that, we ought to agree. We ought to do it. That is usually the cry here: Let the States decide. As much as possible, I would like to see them do that.

What we see here is an excellent opportunity to present a States rights issue and allow the decisions to be made at the local scene where they are going to have the greatest impact. I hope we are going to see full support for this amendment. This is a matter of direct choice.

I yield the floor and encourage all my colleagues to support the amendment the Senator from Ohio has wisely offered.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for 5 minutes.

Mr. SMITH of New Hampshire. I yield to the Senator 5 minutes.

Mr. BAUCUS. Mr. President, this has an intriguing, alluring, siren call: Let the Governors and State legislatures divert it. It sounds good on the surface. But like a lot of issues, let's stop and think about the actual consequences.

First of all, when we passed the last highway bill, even though we increased the amount of dollars to go from Federal gasoline taxes into the trust fund, back out to the States for highway

construction, we all knew we had not even begun to fully take care of our Nation's roads, highways, and bridges. And we have not. The Department of Transportation, the Federal Highway Administration, has done study after study that shows we only meet one-half of our Nation's needs—one-half.

Some of you saw on television last night the report about all the red lights, people caught up in traffic. We know about the potholes. We know about roads and bridges and highways that are not up to snuff. What do we also know? We also know that our highways, as good as they are, are not as durable and as lasting as, say, some European highways, German highways.

Why is that? That is because so much more research and development and expense in dollars goes into that highway system to make those the best in the world. We have problems. We think we have a good highway system—it is good, but the Department of Transportation has concluded, from study after study, we are only halfway there, even with ISTEA that we passed a couple of years ago. So anybody who thinks we should start diverting money from the highway fund better think twice about whether or not we are keeping up with our Nation's highway needs. The answer is that we are not.

Second, the highway program is trusted by Americans. Why is that? Basically because Americans know the Federal gasoline tax, as well as the State gasoline tax, goes into highway construction and maintenance and that is it. A few years ago, we decided to divert 4.3 cents, which was the additional tax we put on for highways, the gasoline tax, away from general revenues in the trust fund. We wanted to restore the trust in the highway trust fund. We did that. So basically all Federal gasoline taxes go in the highway trust fund and a small percent, half a cent, go into mass transit. The rest goes into the highway trust fund. Americans know that. They know where their dollars are going. That gives Americans confidence.

Not along ago, the suggestion was made to repeal the 4.3 cents. That was during a time when gasoline prices were going up. It sounded like a good idea, repeal 4.3 cents of the Federal gasoline tax, get those highway taxes down, get those gasoline taxes down. A siren song? Sounds good on the surface. What happened? We thought about it a little more and realized it was not a very good idea and we decided not to do that. We wanted to keep the 4.3 cents in the highway trust fund, knowing in the long run that is much more in our national interest.

This trust is very important. I can see this as the beginning of a slippery slope, giving Government discretion to take money out of the fund for Amtrak. Then what is next after that? We start to nibble away at the trust.

One other point, the highway system in America is a National Highway Sys-

tem. The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BAUCUS. Mr. President, I ask to proceed for 2 additional minutes.

Mr. SMITH of New Hampshire. I yield the Senator another 5 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire only has 3 minutes remaining.

Mr. SMITH of New Hampshire. I yield the 3 minutes.

Mr. BAUCUS. I will take 2.

This is a National Highway System. What does that mean? President Eisenhower saw this. It was his conception. As a young soldier, he traveled across America and realized the highway system needed help. That means we know, as we travel across the country, that the highways in Montana, New Jersey, Ohio—highways around the country are all in pretty good shape. It is a National Highway System. What is going to happen? I have the highest respect for my friends from New Jersey and Delaware. What is going to happen in those States which are essentially, by comparison, Amtrak States? They are not highway States; they are Amtrak States. We know what is going to happen. Those Governors and legislators are going to say we are going to take money out of the highway trust fund. Because we don't have as many highways in our State, we are going to Amtrak.

What are Americans going to think when the highways in those States start to deteriorate? It is no longer a National Highway System. The same thing about Amtrak. One Governor says Amtrak; the one next-door says, no, not Amtrak. It gets to be quilt work, gets to be patchwork, it gets to be confused, and we do not have a national system anymore.

I think we need to expand Amtrak. I am a strong Amtrak supporter—very strong. But the way to do it is not here on the floor saying Governors decide what a national Amtrak program is. The way to do it is for the Congress of the United States to do its business and come back with a national Amtrak program. That is the way to do it.

We have a budget surplus here. Let's talk about Amtrak in the context of how we put a national Amtrak program together, and not say Governors do this and do that and sometimes some States will have a little more highway money.

Mr. President, I strongly urge my colleagues to not succumb to this siren song because in the long run, it is going to hurt us.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I ask unanimous consent that I be given 2 minutes to speak on this amendment.

Mr. VOINOVICH. I object. I want to know—

The PRESIDING OFFICER. Objection is heard.

Mr. SHELBY. What does the Senator want to know?

Mr. VOINOVICH. I want to know on whose time?

The PRESIDING OFFICER. There are 8 minutes remaining for the proponents.

Mr. SHELBY. I asked unanimous consent that I be given time. It is on nobody's time.

The PRESIDING OFFICER. Is the Senator asking to put off the 11 o'clock vote then by unanimous consent?

Mr. VOINOVICH. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I was not going to comment on this provision today, as I am trying to expedite consideration of the transportation appropriations bill and did not want any statement by me to delay the conclusion of the Senate's consideration of the measure.

However, since I heard the chairman of the Environment and Public Works Committee and the ranking member of the Environment and Public Works Committee come out in opposition to this measure, I could not miss the opportunity to stand with them in opposition to include this provision on the Transportation appropriations bill. Often we find ourselves in disagreement on individual amendments, so when the chance arises to be on the same side with them, I did not want to miss the chance.

Further, I do believe that in this particular instance flexibility is a dangerous tool to be giving Amtrak. It is one thing to grant special dispensation in the case of increasing service or in unique circumstances, but my concern here is that Amtrak will use the provision to leverage State to shift badly needed highway dollars to simply maintaining already failing Amtrak service.

This is one of those circumstances of needing to be careful what you wish for—many States may find that they have fewer highway dollars and the same Amtrak service at the end of the day if this provision were to pass.

I urge my colleagues to reject this provision on this bill.

The PRESIDING OFFICER. Who yields time?

The Senator from Ohio.

Mr. VOINOVICH. Mr. President, one of the things that is a little bit disturbing to me is that there is a feeling in the Senate that somehow Governors control their States: The Governors are going to do this; the Governors are going to do that. The Governors are unable to do anything unless they have the support and involvement of their State legislatures.

I was a Governor from a donor State and fought for ISTEA and TEA-21. When I came in, we were at 79 cents. We are up to 90½ cents. I know how important money is for transportation. This is not an issue of Amtrak. I keep hearing Amtrak. I do not like Amtrak, and if we had the flexibility in my State, I am pretty sure we are not going to spend any money on rail. But I think the Governors should have an opportunity to have the flexibility to

decide—with their legislatures—what is in the best interest of their people in dealing with their transportation problems.

There is one other issue that needs to be taken under consideration when talking about transportation, and that is the environmental policy of the United States. We are in a situation today where we have high gas prices. We are in a situation today where we need to put together an energy policy. Frankly speaking, rail ought to be part of the consideration in deciding that energy policy.

Some of the same people who are objecting to Governors having flexibility on rail supported welfare reform. I remember when we were down here lobbying for welfare reform. They said: If you give it to the Governors, it will be a race to the bottom. But, we got the job done. Some of the same people opposed to this are big advocates of giving Governors the opportunity to spend education dollars. That is what this is about. This is not about Amtrak. It is about flexibility. It is about States rights. It is about federalism.

The only reason I offered the amendment today is that I could not get a unanimous-consent agreement to bring up the bill, S. 1144, and it was stuck with a hold on it. With all due respect to the chairman, for whom I have the highest regard and understanding—and who was a cosponsor of this legislation, this issue of flexibility needs to be aired. We ought to have a vote on it. We ought to give the Governors the opportunity to have this flexibility.

To characterize the amendment as for rail or against—that is not the case. I am not here for that. I am here for flexibility for the Governors who have a big responsibility, and they ought to have an opportunity with their State legislatures to decide how they are going to spend this money. If they want to spend it on rail and debate it, fine. If they do not want it, let them decide that.

Mr. SCHUMER. Will the Senator yield?

Mr. VOINOVICH. I yield to the Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator. I support his amendment, and I want to reiterate how important this will be to our State. Because of ISTEA, our State gets a huge amount of money for road building. The Governors make that decision. We are desperately short in terms of help for rail in many parts of our State. In fact, in some of the rural areas they are looking for rail help now which they were not several years ago.

As I understand the Senator's amendment, it will simply allow each Governor to make that choice so that in my State of New York, if Governor Pataki decides he has enough, or at least a higher priority than the bottom of the rung in terms of his highway decisions and wants to put some of this money into passenger rail service, he will be allowed to do it. It is simply his

decision, no mandate, and will not affect any other State if this amendment is adopted. And that would apply in each of the States; am I correct in assuming that?

Mr. VOINOVICH. That is correct.

Mr. LAUTENBERG. Mr. President, I say to the Senator from Ohio, there are approximately 2 minutes remaining. We had an understanding that we would share some time. Does the Senator need the 2 minutes? If he does, I will step aside.

Mr. VOINOVICH. I yield 2 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I will try to take only 1 minute.

This is not a new idea. This has been in Senate bills before, including ISTEA and TEA-21, and it passed with those bills. It died in conference. There was another influence working over there that prevented us from exercising our will and our judgment about what ought to happen.

With all due respect to my colleagues who oppose this, we have done this before, and we ought to have a clear opportunity to do it again.

The Senator from Ohio was so clear in his presentation. It is simply allowing the governments within the States to make decisions about how they use their highway funds. If they think they are servicing their public better by permitting them to invest in intercity rail, then, by golly, we ought to let them do it. It is better for the highway people. Those who advocate investing more in highways, how about getting more cars off the roads? Doesn't that help the highway people? Doesn't that help clear up congestion? I think so.

I understand the jurisdictional dispute. I am on the Environment and Public Works Committee, and I greatly respect the chairman. He was very clear in what he said. He does not oppose the idea, but he opposes the idea of doing it here.

It is here, and it is now, I say to the Senator, and we have to take the opportunity as it exists. I hope my colleagues will support this.

I yield whatever time remains back to the Senator from Ohio. How much time remains, Mr. President?

The PRESIDING OFFICER. A little less than 30 seconds.

Mr. VOINOVICH. I reserve my time.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized and has 1 minute.

Mr. SMITH of New Hampshire. Mr. President, on behalf of the majority leader, an amendment was inadvertently left off the list of eligible amendments in order to the bill. Therefore, I ask unanimous consent that a Murkowski amendment on an Alaska railroad be added to the list. This has been agreed to by the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, I make a point of order that the pending amendment is legislating on an appropriations bill in violation of

rule XVI. I ask my colleagues to stand with me so that we can put a stop to this practice of legislating on appropriations bills.

Mr. VOINOVICH. Mr. President, I raise a defense of germaneness and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The Chair submits to the Senate the question, Is the amendment No. 3434 germane? The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 52, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—46

Akaka	Inouye	Nickles
Bayh	Jeffords	Reed
Biden	Johnson	Reid
Boxer	Kennedy	Robb
Bryan	Kerry	Roth
Chafee, L.	Kohl	Santorum
Cleland	Landrieu	Sarbanes
Coverdell	Lautenberg	Schumer
DeWine	Leahy	Snowe
Dodd	Levin	Specter
Durbin	Lieberman	Torricelli
Edwards	Lugar	Voinovich
Feinstein	Mikulski	Wellstone
Graham	Moynihan	Wyden
Hollings	Murkowski	
Hutchison	Murray	

NAYS—52

Abraham	Daschle	Kyl
Allard	Dorgan	Lincoln
Ashcroft	Enzi	Lott
Baucus	Feingold	Mack
Bennett	Fitzgerald	McCain
Bingaman	Frist	McConnell
Bond	Gorton	Roberts
Breaux	Gramm	Sessions
Brownback	Grams	Shelby
Bunning	Grassley	Smith (NH)
Burns	Gregg	Smith (OR)
Byrd	Hagel	Stevens
Campbell	Harkin	Thomas
Cochran	Hatch	Thompson
Collins	Helms	Thurmond
Conrad	Hutchinson	Warner
Craig	Inhofe	
Crapo	Kerrey	

NOT VOTING—2

Domenici Rockefeller

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 52. The judgment of the Senate is that the amendment is not germane. The amendment falls.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I am going to increasingly call attention to the disorder that prevails in this Senate.

As I sat here and listened to this crowd in the well, I wondered to myself: Can you imagine Norris Cotton being in that well? Can you imagine George Aiken being in the well at that time? Can you imagine Senator Dick Russell being in the well? Can you imagine Lister Hill being there?

I don't know what the people who visit as our guests in the galleries

think of this institution. It resembles the floor of a stock exchange. I can understand that once in a while people have to go in the well and ask a question. But we are supposed to vote from our seats. I do not know how many Senators know that, but there is a regulation providing that Senators shall vote from their seats. I urge the leadership on both sides to insist that that be done. I always try to vote from my seat. It doesn't present any problem for me, voting from my seat. I realize that some Senators don't get an opportunity to talk to one another until they come to the rollcalls, but we have a vast area outside the Chamber or in the Cloakrooms where they can do that.

So I am going to urge the joint leadership to insist that Senators vote from their desks. If Senators will look on page 158 of the Senate Manual under "Senate regulations", they will find this regulation. May I ask the Chair to read that regulation to the Senate.

The PRESIDING OFFICER. "Votes Shall Be Cast From Assigned Desks."

"Resolved, that it is a standing order of the Senate that during yeas and nays votes in the Senate, each Senator shall vote from the assigned desk of the Senator."

Mr. BYRD. Mr. President, parliamentary inquiry: If I or another Senator insists on that regulation being enforced, is it the Chair's intention—and I am not being personal about this, but will the Chair enforce that regulation, if a Senator asks that it be done?

The PRESIDING OFFICER. It is the duty of the Chair to enforce all the rules and regulations of the Senate.

Mr. BYRD. I thank the Chair.

I hope Senators heard the Chair. For those who are not here, I hope they will read it. I urge that the joint leadership insist on that regulation. Otherwise, I am going to insist on it. One Senator can insist on it. As I understand from what the Chair has said in his response to my parliamentary inquiry of the Chair, it is the Chair's duty to enforce the regulations.

I don't say this with any animus, but I am concerned about how the Senate appears to visitors during roll call votes. Perhaps other Senators may not be quite so concerned, but I am because it seems to be getting worse.

I thank the Chair. I thank all Senators.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, following the previous agreement, all amendments had to be filed by 11:30. I think it is a little past 11:30. We should now have all of the amendments.

At this time, I would like to review with my ranking member, Senator LAUTENBERG, all amendments that have been filed.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, may we have order, please.

The PRESIDING OFFICER. The Chair calls for order in the Senate.

Ms. COLLINS. Thank you, Mr. President,

AMENDMENT NO. 3439

(Purpose: To express the sense of the Senate that the Strategic Petroleum Reserve should be used to address high crude oil and gasoline prices)

Ms. COLLINS. Mr. President, I send an amendment to the desk

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Ms. COLLINS), for herself and Mr. SCHUMER, proposes an amendment numbered 3439.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title III, insert the following:

SEC. 3. SENSE OF THE SENATE CONCERNING USE OF THE STRATEGIC PETROLEUM RESERVE.

(a) FINDINGS.—The Senate finds that—

(1) since 1999, gasoline prices have risen from an average of 99 cents per gallon to \$1.63 per gallon (with prices exceeding \$2.00 per gallon in some areas), causing financial hardship to Americans across the country;

(2) the Secretary of Energy has authority under existing law to fill the Strategic Petroleum Reserve through time exchanges ("swaps"), by releasing oil from the Strategic Petroleum Reserve in times of supply shortage in exchange for the infusion of more oil into the Strategic Petroleum Reserve at a later date;

(3) the Organization of Petroleum Exporting Countries ("OPEC") has created a worldwide supply shortage by choking off petroleum production through anticompetitive means;

(4) at its meetings beginning on March 27, 2000, OPEC failed to increase petroleum production to a level sufficient to rebuild depleted inventories; and

(5) the Secretary of Energy should implement a swap plan at times, such as the present, when prices of fuel have risen because of cutbacks in the production of crude oil.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that if the President determines that a release of oil from the Strategic Petroleum Reserve under swapping arrangements would not jeopardize national security, the Secretary of Energy should, as soon as is practicable, use the authority under existing law to release oil from the Strategic Petroleum Reserve in an economically feasible way by means of swapping arrangements providing for future increases in Strategic Petroleum Reserve reserves.

Ms. COLLINS. Mr. President, I rise today on behalf of myself and my distinguished colleague from New York, Senator SCHUMER, to offer a sense-of-the-Senate resolution that addresses

perhaps what is the most pressing transportation problem facing America today; that is, the outrageously high cost of gasoline. Retail gasoline prices have skyrocketed over the past months to a nationwide average of \$1.63 per gallon. In my hometown of Caribou, ME, a gallon of regular unleaded gas costs \$1.68. And that's if you pump your own. In the Midwest, gasoline prices have exceeded \$2 a gallon. Yesterday, gasoline futures hit a 9½-year high on the New York Mercantile Exchange. Yet, just last year, gasoline prices averaged only 99 cents per gallon. What a difference a year can make.

This past March, Secretary of Energy Bill Richardson assured the nation that we would enjoy declining gasoline prices over the spring and summer and promised that we would not see gasoline prices at \$2 per gallon. Unfortunately, \$2 is exactly what many Americans now pay for a gallon of gas.

These high prices are the result of steadily increasing crude oil prices which, in turn, have been caused by OPEC's anticompetitive activity. Since the second quarter of 1999, OPEC has cut production by over 3 million barrels per day in a deliberate attempt to raise prices. Well, the strategy has worked. Although OPEC countries sold 5 percent less oil in 1999, their profits were up 38 percent. And the profits keep rolling in.

Early last fall, Senator SCHUMER and I began warning the Clinton administration that OPEC's production squeeze would have far-reaching, detrimental impacts on our economy. At that time, oil prices already were beginning to rise, and U.S. inventories were falling. Throughout the winter, Mainers and all Americans who heat with oil suffered from the highest distillate prices in a decade.

The administration's lack of a response has been as perplexing as it is disappointing. Last winter, Secretary Richardson admitted that the "Federal Government was not prepared. We were caught napping." This is an astonishing explanation for the administration's lack of leadership. And now it's time for the administration to wake up.

The administration's "energy diplomacy" policy has proven to be a failure.

On March 27, the OPEC nations agreed to increase production, but at a level that still falls well short of world demand. At the time, Secretary Richardson proclaimed that the administration's policy of "quiet diplomacy" had worked and forecast price declines of 11 to 18 cents per gallon by mid-summer. Thus far, exactly the opposite has occurred. Gasoline prices are up some 12 cents per gallon since the OPEC announcement. Now predictions are not so rosy. As the Department of Energy's Energy Information Administration candidly noted in its June 2000 short-term energy outlook, "we now recognize that hopes for an early peak in pump prices this year have given way

to expectations of some continued increases in June and possibly July."

Moreover, the EIA's June report warns that OPEC's anticompetitive scheme could place us next winter once again in the midst of another diesel fuel and home heating oil crisis. The report predicts that world oil consumption will continue to outpace production throughout this year resulting in, and I quote, "extremely low inventories by the end of the year, leaving almost no flexibility in the world oil system to react to a cutoff in oil supplies somewhere or an extreme cold snap during next winter."

It is past time for this administration to shift gears from quiet diplomacy to active engagement. The oil crisis we have faced for over a year underscores the fact that this administration has no energy policy, much less one designed to address the needs of America in the 21st century. Americans deserve a long-term, sustainable, cogent energy policy. But, in the short term, they also deserve some price relief. The amendment Senator SCHUMER and I have offered would do just that.

The amendment is straightforward. It addresses the sense of the Senate that the Secretary of Energy should use his authority to release some oil from our massive Strategic Petroleum Reserve through time exchanges, or "swaps." The immediate commencement of a swaps policy would bring oil prices down while providing a buffer against OPEC's supply manipulations. Moreover, a well-executed swaps plan could, over time increase our reserve from its current level of 570 million barrels, at no cost to taxpayers.

Mr. President, the swaps approach advocated by our amendment would also give the administration leverage it has refused to bring to bear on the OPEC cartel. Quiet diplomacy has not worked. OPEC already has broken a commitment it gave to Secretary Richardson to increase production further if crude oil prices hit the levels they have reached over the past month. OPEC is scheduled to meet again on June 21 in Vienna. We need to show OPEC that we will not sit idly by as the cartel manipulates our markets and gouges us at the pump. The amendment Senator SCHUMER and I have offered is designed to send a strong signal to OPEC nations and to provide relief to the American consumer.

Mr. President, I am aware this amendment is subject to a procedural point of order, and therefore, Senator SCHUMER and I will be withdrawing it. Nevertheless, it is a very important issue.

I commend the Senator from New York for his leadership in working on this issue for so many months. We will continue our efforts. We are writing, once again, to the President, to urge him to immediately implement a swap plan as proposed by our amendment.

For the sake of all Americans who have felt the squeeze of skyrocketing oil and gas prices, we sincerely hope

that the time has finally come for the administration to heed our call.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, I thank the Senator from Maine for her leadership and her comradeship on this issue.

We have been working for a long time. We are not going to rest until something is done. If what we propose is not the right course, come up with some other strategy. But clearly, as the Senator says so correctly, something is not working.

The bottom line is simple. Last year, the Senator from Maine and I predicted home heating oil prices would go through the roof. We were told by the Energy Department and others: Oh, no, don't worry. You are being alarmist.

Unfortunately, for many of our constituents and millions of Americans in other States, home heating oil prices went through the roof.

Then in the early winter, we said: Now, gasoline could go to \$2 a gallon this summer if nothing is done. We had studied how much oil OPEC was putting out. We looked at rural demand. We looked at the fact that our former friends, or friends who had always been helpful—Mexico and Norway, non-OPEC Members that expanded the supply of oil—would not help anymore.

They said, as the Senator from Maine indicated, let's try some quiet diplomacy. We are not the fount of all wisdom. Why not?

On March 27, when the OPEC members met, they said they were going to prevent oil from going to \$28 a barrel on the spot market. And if it went over \$28 a barrel for more than 30 days, they would release additional oil and bring the price back down. In fact, they set a range, not just a ceiling. There was also a floor, \$22 to \$28. It was high but within the bounds of being livable for the consumers in our States who, if nothing was done, would pay \$1,000 more each year for gasoline and home heating oil. That number is no different than for most of the constituents of my colleagues from other States.

If we look at what Chairman Greenspan is doing in raising interest rates, he cites oil pressure on the economy as one of the great problems we face. He said if OPEC will do this on its own, maybe that is a better way.

Oil has been above \$28 for more than 30 days and the OPEC nations are saying they are not going to do anything.

Maybe swapping SPR reserves, as we are urging in the bipartisan letter we are releasing today, signed by about a dozen of our colleagues, as well as ourselves, is not the only way to go, but nobody has presented a better alternative.

If we were to release a relatively modest amount of oil from the SPR, prices would come down, the fragile unity that OPEC has shown would be broken, and there would be new cheating on OPEC's part, and the price would come down further.

We have 570 million barrels of oil sitting there. If we were to release, say, a million barrels of oil for a 45-day period, it would not deplete the reserve. Figure it out using simple mathematics. It is less than 10 percent of the reserve. Furthermore, because the market is what is called "backwardized," we could actually require that we would lock in a price, that we could buy oil next April at \$25 a barrel. It is simple arithmetic.

If we sell at \$31 and we can buy it back next April by buying futures on the oil market for \$25, not only do we achieve our main goal, which is to bring the price of oil back down and help the consumers throughout the country who are paying through the nose for gasoline, we could also actually make some money. The Government, for once, would be behaving as a private business. That is not our goal, but that would be a side benefit.

Here we are. Everything that has been said has not worked. Home heating oil did go through the roof. The price of gasoline is, in parts of the country, already above \$2 a gallon. The average, as of yesterday, was \$1.60—something in the rest of the country. And mark my words, heating oil next year, if we do nothing, will be much higher than it was last winter, when our constituents in the Northeast and Middle West faced unprecedented home heating oil bills.

So this resolution—I wish the point of order didn't lie against it; it does—is what is needed. I agree with my friend and colleague from Maine we ought to withdraw it. But make no mistake about it; this policy is the only policy left on the table. To those who say it may not work—which is the only argument left. They first told us it was not legal, but it was, as we proved. They had done it three times before. They told us it was unnecessary. Prices show it is necessary. Now they are saying it may not work. Guess what. It cannot be worse than what is happening now.

So I strongly urge my colleagues, if they cannot vote on our resolution because of this point of order, to sign the letter Senator COLLINS and I have authored and continue to make our case that swapping oil from the Strategic Petroleum Reserve is the best policy we have to bring the all-too-high cost of energy down and keep our economic prosperity on track.

With that, I will yield to the Senator from Maine to conclude.

The PRESIDING OFFICER. The Senator from Maine.

Mr. LEVIN addressed the Chair.

Ms. COLLINS. Is the Senator from Michigan seeking to be heard on this resolution?

Mr. LEVIN. I am.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me congratulate the Senators from Maine and New York for this resolution. Because it is a sense-of-the-Sen-

ate resolution which might be ruled not to be germane or appropriate on this bill for technical or procedural reasons, I understand they will be withdrawing it. I am sorry that is what they must do under our rules, or need to do under our rules, because this resolution of theirs really addresses one of the most critical issues my constituents in Michigan are facing. I know the Senator's constituents in Maine are facing it, and the constituents of the Senator from New York. All of our constituents are facing these skyrocketing prices which have no rational explanation—except that the oil companies have decided they are going to gouge us pricewise, although their own prices of oil per barrel have not gone up nearly as much as have the prices that they are charging us.

We have had two agencies of this Government that have said there is no logical or rational explanation for the huge increase in gas prices. The Federal Trade Commission should investigate this matter. I have asked them to investigate this matter because of the possibility of anticompetitive practices on the part of the oil and gas industry. That is within the jurisdiction of the Federal Trade Commission. Their staff, indeed, is required to undertake that inquiry.

What is going on here is intolerable. It is not a reflection of the price of oil per barrel. The prices at the pump have gone up far more, proportionally. In the absence of that kind of explanation, and in the presence of the kind of skyrocketing prices we are facing at the pump, as the Senator from Maine said—in the Midwest, in my State, now over \$2 a gallon—I think the signal which is being sent by this resolution is a very important one. The letter they are sending I hope will get the signatures of every Member of this body. I have already sent the President a similar letter urging the withdrawal of some oil from the Strategic Petroleum Reserve and the later swap of oil back into that reserve. I intend to sign this letter again because I think the more of us who ask this administration to withdraw oil from the Strategic Petroleum Reserve the better, and the more likely they would do so.

I commend the two Senators for their action. I intend to forcefully join with them in their letter and to continue my own efforts, as previously indicated both with the Federal Trade Commission to obtain their investigation for potential anticompetitive practices, as well as the withdrawal issue by the Department of Energy, because I believe that is one of the ways we can fight back against the OPEC monopoly.

Mr. DURBIN. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. DURBIN. If the Senator from Michigan will yield, I commend him for his remarks and also commend the Senators from Michigan and Maine for what they have done and their leadership on this issue. This is a critically important issue in the Midwest. It is

certainly an important issue in the State of Illinois. I have been back to my State and I can tell you virtually every single group I have met with—labor, business, education, ordinary families—all bring up this issue as the first concern because it hits them in the pocketbook. Families trying to drive back and forth to a job, small businesses that depend on the cost of fuel for profit—they are all concerned. I commend the Senator from Michigan for the comments he has made.

I have listened to the oil companies and their explanations about why these prices have gone up, but I have to tell you they just don't wash. They don't make sense. When you explore them and look to them you say: Sure, that might account for a 2-cent increase or a 5-cent increase. But in the Chicagoland area, it is not uncommon to find gasoline at \$2.29 a gallon and higher, for the lowest cost gasoline. That does not explain it away.

Frankly, I think the oil companies are coming up with excuses. In the past, they have come up with excuses and, frankly, we have to go further. I think the Senator from Michigan is correct; the Federal Trade Commission has a responsibility here. Next Tuesday, the chairman of that Commission is going to meet with the Illinois delegation to talk about this. I hope they take the Senator's suggestion and go forward with this investigation. At this time I think we need to have the oil companies in for honest answers so families and businesses across America understand what is behind this.

I commend the Senator from Michigan, as well as the Senator from Maine, and all those who have shown leadership on this issue. It is really a matter of the quality of life for a lot of families and businesses in the Midwest—across the Nation.

Mr. LEVIN. I thank my good friend from Illinois for his comments. As always, he has his finger on the pulse of his constituents. That is the No. 1 issue with the people of Michigan at the moment, the skyrocketing price of gas at the pump. There is not even a close second. This is the first, second, and third issue on the minds of the people of Michigan and the Midwest, and obviously other parts of the country as well. We have to hold the oil companies accountable. We have to put as much pressure on them as we can. Withdrawing oil from the Strategic Petroleum Reserve is one of the ways in which we can fight back against these skyrocketing prices.

The PRESIDING OFFICER. The Senator from Michigan is recognized, Senator ABRAHAM.

Mr. ABRAHAM. Mr. President, I first thank the Senator from Maine for her steadfast efforts to raise these issues over a fairly lengthy period of time now. I also think we should, perhaps, review some of the recent history. As my colleague from Michigan just indicated, it is clearly not just in Maine or Michigan but across the country, in almost every part of the country, the No.

1 issue on people's minds today—what it costs to fill up one's automobile or sports utility vehicle with gasoline.

In my case, like many other fathers with young children, we have a minivan. When we go to the pump now, it is somewhere between \$40 and \$50 to fill up our tank. There seems to be a pattern in our region—Michigan, Illinois, and some of the other States in the Great Lakes—that have driven the prices even higher than the national average. I share the concerns my colleague from Michigan and colleague from Illinois have expressed with respect to why this is affecting uniquely our State. I have asked the Secretary of Energy to meet personally on this issue to find out what insights he provides.

I think a few other issues need to be discussed. First, I think the points that have been raised with respect to releasing some of the petroleum in our strategic reserve make sense. This is a way to make an immediate impact, to have an immediate impact on the supply of oil which, in turn, will relate to the price. There are a lot of things we can do that will have a long-term impact, but the short-term impact is fairly limited.

No. 1, we can tap the reserve. No. 2, we can suspend, as we have on several occasions tried to vote to do, the Federal gasoline taxes to reduce some of the costs the consumers are paying.

But I think there is an issue we need to talk about as well, that has more of a long-term consideration to it, and that is the dependency of our country on foreign sources of energy. The fact is, even if you level out the prices for the Great Lakes, if the problems in our region were to be resolved in such a fashion that we simply returned to the approximate level of the rest of the country, we would still be paying substantially higher prices than we did a year ago. There is no question the reason for that is the OPEC nations' decisions with respect to supply is the cause of these higher prices. While I think we should investigate whether it is the oil companies or anyone else who may be taking advantage of the supply situation in some inappropriate way, I think we must try to wean ourselves from the dependency we have on foreign energy sources.

I believe we have a responsibility as a Congress to work on issues related to this.

I believe the administration has a responsibility, which it has not fulfilled in over 7 years in office, to provide us with a long-term energy policy that prevents dependency from getting any worse. In the 1970s, when we had an energy crisis that led to lines at the fuel pumps, that led to shortages, we were only 35-percent dependent on foreign energy. Today, we are 55-percent dependent. At the current rate, we will hit 60 percent in the near future.

There is no question that if we place ourselves in that position, we will be at the mercy of the decisionmaking of

foreign countries with respect to our energy costs. I do not think we want to be in that position as a nation. I do not think we want to have our Energy Secretary, irrespective of to which administration he or she might belong, be forced to go hat in hand, as Secretary Richardson recently was required to do, to persuade foreign countries to give America a little bit more of a supply. The only way to address that is to change policies at home that allow for domestic production to increase that will permit us to tap into alternative energy sources and to conserve more energy.

That, I believe, ought to occupy as much attention as anything else we do in this area. To address the long-term needs, in my judgment, is the top energy policy on which we should right now be focused as a Congress and as a nation.

We need a multifaceted approach. In the short run, the Strategic Petroleum Reserve can give us immediate relief on some of the prices. I believe we should, again, consider suspending the gas tax as another way to do that for the short run. Until and unless we demonstrate as a nation a commitment to increasing our own domestic production, we are going to send a signal to these other nations that they are going to have the leverage they can use when they wish to make more profits for themselves at our expense, and instead of American consumers being in charge, it will be foreign oil ministers who make those decisions.

That is wrong. I intend to fight that, and I intend to be back on the floor as much as it takes on these issues until we begin to focus on that aspect of the problem.

Let's say the national average in the region—which does not include Michigan, Ohio, and Illinois—if that average fuel price was the price in my State, \$1.50 to \$1.60 a gallon, it would still be too high, in my opinion. The only way it is going to change is if we address the long-term issues as well.

I thank the Senator from Maine for her amendment and her efforts. I look forward to working with her on this issue. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3439 WITHDRAWN

Ms. COLLINS. Mr. President, I thank the Senator from Michigan. He is absolutely right in that we need to pursue a long-term energy policy for this Nation, as well as to provide short-term price relief by tapping our Strategic Petroleum Reserve.

I thank all my colleagues who have supported and have spoken out in support of this resolution, but particularly my primary sponsor of the legislation, Senator SCHUMER of New York. Since a point of order will lie against the amendment, I ask unanimous consent that my amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is withdrawn.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered.

THE ELECTRONIC SIGNATURE ACT

Mr. LEAHY. Mr. President, I mention this only because I know we were in a quorum call and, being in a quorum call, this time would not be taken from the bill. The House of Representatives has passed overwhelmingly—I think with only four votes against it—the Electronic Signature Act. We will be taking it up in a matter of hours. I will speak further on this on the floor today, but I strongly urge my colleagues to vote for this bill.

A number of us worked closely—Republicans and Democrats alike—to craft the final package. I was one of the conferees and signed the conference report—indeed I also signed and supported the earlier report based on the agreement we achieved before the last recess weeks ago. I think that it is a good piece of legislation. I think it should pass. It includes consumer protections and balance that were lacking from the House-passed bill and builds upon the narrower provisions of the Senate-passed bill to include some additional provisions regarding record retention.

Originally, there were some who wanted to pass a digital signature bill almost for the sake of passing one. Fortunately, cooler heads prevailed in both parties but also among the industry. I think most of those in the various industries that will be affected, who want an electronic signature bill, realize they have to have something that would have consumer protection in it. Otherwise, we could see companies that do not have a strong sense of consumer ethics misuse the bill. The public reaction would be such that a subsequent Congress would wipe out all the gains we made.

What has happened now is we have written in good protections. The best companies, those companies that value their reputation and are in for the long haul, will follow these rules without any hesitation. But companies that may think of this as a chance to make profits—sudden profits—from people who are not computer literate, people who are just coming across the digital divide, they will be stopped from preying on the innocent.

I think it is a good piece of legislation, as I said. A number of us, Republicans and Democrats, worked very hard on this. Now we do have a good bill. In the Senate, Chairman MCCAIN and Senator HOLLINGS, Senator HATCH and I and Senator GRAMM and Senator